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Tariffs Implementing Access Charge Reform)	CC Docket No. 97-250
)	File No. CCB/CPD 98-12

AT&T COMMENTS ON MCI EMERGENCY PETITION FOR PRESCRIPTION

Pursuant to the Commission's Public Notice, DA 98-385, released February 26, 1998, AT&T Corp. ("AT&T") submits these comments on MCI's Emergency Petition for Prescription. MCI contends that the Commission should:

- (i) revisit its access reform approach and prescribe cost-based interstate access rates;
- (ii) adopt a standardized, workable definition of primary and non-primary lines and associated procedures;
- (iii) find that interexchange carriers ("IXCs") can de-PIC customers so that the IXC would no longer be responsible for presubscribed interexchange carrier charges ("PICCs") after discontinuing service to a customer and timely notifying the local exchange carrier ("LEC") of that fact; and
- (iv) require the LECs to identify the amount of universal service subsidies flowed through to IXCs in access charges.

AT&T strongly supports MCI's petition.

First, MCI is correct that the fundamental assumption of the Commission's Access Reform Order¹ -- that

¹ Access Charge Reform, CC Docket No. 96-262, First Report and Order, FCC 97-158, released May 16, 1997 ("Access Reform Order").

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the availability of unbundled network elements, and combinations of such elements, at forward-looking economic cost would enable significant competition to develop within a reasonable timeframe -- has been invalidated. That fact alone requires the Commission to revisit its access reform policies and take steps to immediately lower access prices to forward-looking economic cost to avoid serious jeopardy to competition. Not only do the current massively inflated access charges both directly harm consumers, but, as the Commission found, they have a destructive and "disruptive effect on competition, impeding the efficient development of competition in both the local and long-distance markets." Access Reform Order, paras. 30, 165.

Because network-element based competition will not in the foreseeable future constrain incumbent LECs' ability to maintain access charges above competitive market levels, Commission intervention and prescriptive access rate reductions have become critical, so that consumers can enjoy the benefits of lower long distance rates reflecting access reductions. Moreover, a regime in which only incumbent LECs enjoy cost-based access and the ability to offer the bundled local and long distance services that consumers increasingly demand is a regime that seriously undermines competition in the provision of both local and long distance services,

ultimately reducing consumer choice and welfare.² Commission action addressing interstate access rate levels is therefore now imperative.

Second, AT&T also fully concurs with MCI that the LECs have failed to define primary and non-primary residential lines in a fair manner, and have failed to provide IXCs with timely verifiable, auditable line count information supporting PICC charges. Indeed, as AT&T has repeatedly urged, because of the difficulties and unnecessary new, costly administrative procedures associated with the primary/non-primary line distinction, the Commission should eliminate this distinction and set the residential SLC and PICC at levels that represent the weighted average of the primary and non-primary line charges that the Commission contemplated in the Access Reform Order.³ Alternatively, the Commission should adopt the "service address" definition of primary and non-primary lines which results in a line count result that is objectively accurate, not susceptible to subscriber manipulation, and

² See AT&T Comments, filed January 30, 1998, and AT&T Reply Comments, filed February 17, 1998, in Request for Amendment of the Commission's Rules Regarding Access Charge Reform and Price Cap Performance Review for Local Exchange Carriers, RM 9210, which AT&T incorporates by reference herein.

³ See AT&T Reply Comments in Defining Primary Lines, CC Docket No. 97-181, filed October 9, 1997, at 1-2 and n.2; see also AT&T Corp. Comments on Direct Cases in Tariffs Implementing Access Charge Reform, CC Docket No. 97-250, filed March 16, 1998, at 2-7, which AT&T incorporates by reference herein.

easily verifiable and administrable.⁴ Failure either to eliminate the distinction or adopt a workable definition and require LECs to provide timely line-specific information leaves IXCs in a position where they cannot accurately charge their customers. MCI at 15. Because incumbent LECs have failed to provide IXCs with auditable line count data (as required by the October 9, 1997 Access Charge Second Reconsideration Order, para. 16), and because IXCs are, as a result, precluded from recovering these PICCs from end users in an efficient manner, AT&T agrees with MCI (at 22) that the Commission should prescribe, as part of the pending investigation of the January 1, 1998 tariffs, a PICC rate of \$0.00 pending LEC compliance with the Commission's directives. Until then, LECs should recover PICCs directly from end users.

Third, the Commission should also find, as MCI suggests (at 23-24) and as AT&T has previously advocated, that IXCs cannot be forced to pay PICCs for customers with whom they no longer have any business relationship.⁵ Once an IXC

⁴ *Id.* at 5. In this one respect, AT&T disagrees with MCI's view (at 18) that a billed telephone number ("BTN") approach should be used to determine whether a line is primary or non-primary. The BTN approach permits customers to manipulate their line classification simply by disaggregating multiple lines into separate accounts, all of which would then be charged the lower SLC and PICC associated with primary lines.

⁵ See AT&T Comments, filed February 10, 1998, and AT&T Reply Comments, filed February 25, 1998, in Request for Declaratory Ruling Regarding Application of PICCs, File

has terminated its relationship with a customer, it can no longer recover the PICC from that customer. The LEC, on the other hand, continues to have a business relationship, and is therefore in a position to recover the PICC from the end user, who is after all the cost causer. Accordingly, customers to whom the IXC has terminated service should be treated no differently than any other customers who do not have a presubscribed IXC, in which case the Commission has expressly authorized the LECs to bill the PICC directly to the end user.⁶ To implement this approach, the incumbent LECs should be required to accept de-PICs from IXCs in these circumstances because end user customers have no incentive to request a PIC change given that they can place dial-around calls and let their former IXC pay the PICC. Moreover, the Commission can properly find that "[i]f the end user takes no steps to presubscribe to another IXC, the end user, in essence, has chosen not to be presubscribed to any IXC."⁷

Finally, AT&T also concurs with MCI that, to the extent the Commission does not take steps to eliminate the flow-back, incumbent LECs should be required to identify explicitly how much of their USF assessment is flowed through

(footnote continued from previous page)

No. CCB/CPD 98-2, which AT&T incorporates by reference herein.

⁶ Access Reform Order, paras. 91-92.

⁷ WorldCom Comments, File No. CCB/CPD 98-2, at 4; *see also id.* CWI at 2; MCI at 3.

to IXC's in the Common Line basket. This can best be accomplished by establishing a new separate rate element in the Common Line basket, which will make it possible to determine the amount collected from IXC's and ensure that LEC's recover only that which they are obligated to contribute to the support of universal service.⁸ It will also enable IXC's to pass these universal service charges on to their customers, if they so desire.

CONCLUSION

For the reasons stated above, the Commission should:

- (i) prescribe cost-based interstate access rates; (ii) adopt standardized definitions and procedures for primary and non-primary lines; (iii) find that an IXC can de-PIC a

⁸ See AT&T Opposition to Petitions for Reconsideration, filed August 18, 1997, in Access Charge Reform, CC Docket No. 96-262, at 17-18.

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customer so that it would not be liable for payment of the
PICC if it has discontinued service to the customer and timely
notified the LEC; and (iv) require each LEC to identify the
amount of the its universal service support obligations flowed
through to IXCs in access charges.

Respectfully submitted,

AT&T CORP.

By /s/

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March 18, 1998

CERTIFICATE OF SERVICE

I, Viola J. Carlone, do hereby certify that on this 18th day of March, 1998, a copy of the foregoing AT&T Comments on MCI Emergency Petition for Prescription was served by U.S. first class mail, postage prepaid, to the parties listed on the attached Service List.


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